

Stephen J. Estey (Bar No. 163093)
 steve@estey-bomberger.com
 R Michael Bomberger (Bar No. 169866)
 mike@estey-bomberger.com
 ESTEY & BOMBERGER, LLP
 2869 India Street
 San Diego, CA 92103
 Telephone: (619) 295-0035
 Facsimile: (619) 295-0172

Donald J. Beck (Bar No. 70108)
 Law Office of Donald J. Beck
 2217 Galveston Street
 San Diego CA 92110
 Phone (619) 990-2524

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

THERESA BUCKMAN- FALDUTI, an
 individual; TODD FALDUTI, an individual,

 Plaintiffs,

 vs.

 KINDERCARE LEARNING CENTERS,
 INC., a Delaware corporation,

 Defendant.

Case No.: C 08-04778 CW

**STIPULATION AND ORDER TO
 EXTEND THE TIME FOR EXPERT
 DEPOSITIONS; MOTIONS TO COMPEL
 EXPERT DISCOVERY; HEARING ON
 MOTION FOR SUMMARY JUDGMENT
 AND TRIAL DATE; DECLARATION OF
 STEPHEN J. ESTEY IN SUPPORT
 THEREOF**

**Judge: Hon. Claudia Wilkin
 Dept: Courtroom 2, 4th Floor**

Pursuant to Local Rules 6-2 and 7-12, Defendant KINDERCARE LEARNING
 CENTERS, INC. ("KinderCare") and Plaintiffs THERESA BUCKMAN-FALDUTI and TODD
 FALDUTI (collectively, the "Parties") stipulate to extend:

- (1) The time to complete the depositions of Todd Falduti and the following
 fact witnesses: Amber Bushaw, Sylvia Fish and Susan Berry from
 Thursday, January 14, 2010 to Wednesday, April 14, 2010;
- (2) The time to file and serve motions to compel fact discovery from Tuesday,
 January 27, 2010 to Friday, April 23, 2010;

STPULATION & ORDER TO EXTEND EXPERT DEPOSITION,
 MOTION TO COMPEL EXPERT DISCOVERY, HEARING ON
 MOTION FOR SUMMARY JUDGMENT AND TRIAL DATE;
 DECLARATION OF STEPHEN J. ESTEY

- 1 (3) The time to complete retained and non-retained expert depositions from
- 2 Thursday, January 14, 2010 to Wednesday, April 14, 2010;
- 3 (4) The time to file and serve motions to compel retained and non-retained
- 4 expert discovery from Tuesday, January 27, 2010 to Friday, April 23,
- 5 2010;
- 6 (5) The hearing date on defendant's Motion for Summary Judgment (and
- 7 related briefing deadlines) from Thursday, January 14, 2010 to Thursday,
- 8 April 15, 2010;¹
- 9 (6) The January 14, 2010 Case Management Conference to April 15, 2010:
- 10 (7) The May 18, 2010 Final Pretrial Conference to November 9, 2010; and
- 11 (8) The trial date in this matter from Tuesday, June 1, 2010 to Monday,
- 12 November 29, 2010

13 for the reasons stated in the Declaration of Stephen J. Estey attached hereto as Exhibit "A".

14 IT IS SO STIPULATED.

15 DATED: December 17, 2009

SEYFARTH SHAW LLP

16 By: /s/ Giovanna A. Ferrari
17 Jay W. Connolly
18 Giovanna A. Ferrari
Attorneys for Defendant
19 KINDERCARE LEARNING CENTERS, INC.

20 DATED: December 17, 2009

ESTEY & BOMBERGER, LLP

21 By: /s/ Stephen Estey
22 Stephen Estey
23 Michael Bomberger
Attorneys for Plaintiffs
24 THERESA BUCKMAN-FALDUTI AND
TODD FALDUTI

25 ///

26 ///

27 ¹ Pursuant to this Court's November 9, 2009 Order, the Court will decide Defendant's
28 Motion for Summary Judgment on the papers and no hearing will take place unless requested by
the Court.

1 PURSUANT TO STIPULATION, IT IS SO ORDERED, EXCEPT THAT ARGUMENT
2 ON THE MOTION FOR SUMMARY JUDGMENT WILL BE HEARD ON APRIL 15, 2010
3 AT 2:00 P.M. UNLESS IT HAS EARLIER BEEN DECIDED ON THE PAPERS.

4 Dated: 12/23/09 _____



Hon. Judge Claudia Wilken

EXHIBIT A: DECLARATION OF STEPHEN J. ESTEY

I, Stephen J. Estey, declare:

1. I am an attorney at law duly licensed to practice before all courts of the State of California. I am a shareholder of Estey & Bomberger, LLP, attorneys of record for plaintiffs herein. The following facts are personally known to me, except as to those matters stated on information and belief, and if called as a witness, I could and would competently testify thereto.

2. As of the date of this Stipulation, the following stipulations to extend time have been filed in this matter: (1) On November 20, 2008, the parties stipulated to extend the time for KinderCare to answer the complaint; (2) on May 22, 2009, the parties stipulated to extend the time to complete mediation; (3) on October 28, 2009, the parties stipulated to extend the time for KinderCare to file its reply brief in support of its motion for summary judgment; (4) on October 29, 2009, the parties stipulated to extend the expert discovery deadline; and (5) on November 5, 2009, the parties stipulated to extend the motion for summary judgment, discovery, and case management deadlines.

3. On February 6, 2009, this Court issued a Minute Order and Case Management Order which scheduled the expert discovery cut-off on December 17, 2009. On November 9, 2009, this Court granted the parties' stipulation to continue the expert discovery deadline to January 14, 2010. Trial is currently set for June 1, 2010.

4. The parties disclosed 4 retained experts on November 13, 2009 (2 per party).

5. On December 7, 2009, defense counsel informed Plaintiffs that it would be taking the deposition of a non-retained expert (Plaintiff Theresa Falduti's physician). Defense counsel is currently attempting to negotiate available deposition dates with Ms. Falduti's physician.

6. Also on December 7, 2009, Plaintiffs disclosed an additional expert witness.

7. Several of the expert depositions will occur in Southern California.

8. Due to the holidays, travel time and the availability of the various experts and counsel for the depositions, the parties are unable to complete the percipient and expert depositions by the current expert discovery cut-off of January 14, 2010.

///

STIPULATION & ORDER TO EXTEND EXPERT DEPOSITION,
MOTION TO COMPEL EXPERT DISCOVERY, HEARING ON
MOTION FOR SUMMARY JUDGMENT AND TRIAL DATE;
DECLARATION OF STEPHEN J. ESTEY

1 9. Settlement discussions are actively ongoing and the parties believe a continuance of
2 the hearing and briefing schedule on defendant's Motion for Summary Judgment and the
3 percipient and expert discovery cut-offs as set forth above is critical to allow them to re-engage the
4 mediator and provide additional time to resolve this case. Further, I am informed and believe that
5 defense counsel has trials in other matters from late-February 2010 through March 2010, further
6 necessitating the continuances.

7 10. The parties also seek to continue the trial date which is currently set for June 1,
8 2010 to Monday, November 29, 2010 to accommodate the continuances and scheduling conflicts
9 referenced above.

10 11. The parties also request a continuance of the January 14, 2010 Case Management
11 Conference to April 15, 2010.

12 I declare under penalty of perjury under the laws of the United States that the foregoing is
13 true and correct. Executed this 17th day of December 2009, at San Diego, California.

14
15 /s/ Stephen J. Estey
16 Stephen J. Estey, Declarant
17
18
19
20
21
22
23
24
25
26
27
28